

May 13, 2004 Commission Meeting Summary

ITEM #

- 1. Public Comment.** *No public comment received.*

CONSENT ITEMS

- 2. Approval of the Minutes of the April 8, 2004, Commission Meeting.** *Approved.*

ENFORCEMENT

Conflicts of Interest

- 3. In the Matter of Vikram Budhraj, FPPC No. 02/1075.** Staff: Commission Counsel Julia Bilaver, Supervising Investigators Dennis Pellón and Sue Straine, and Investigator III Dan Schek. As a consultant for the Department of Water Resources, Mr. Budhraj participated in making five governmental decisions in which he had a financial interest, by advising state officials regarding the purchase of energy from two companies in which he had an economic interest, in violation of section 87100 (5 counts). *Approved; \$17,500 fine.*

Campaign Reporting Violations - Default

- 4. In the Matter of Armando Rea, and Citizens to Elect Armando Rea, FPPC No: 97/352.** Staff: Commission Counsel Steven Meinrath and Investigator III Sandra Buckner. Respondent Armando Rea was a successful incumbent candidate for Lynwood City Council in the November 4, 1997 General Municipal Election. Respondent Citizens to Elect Armando Rea was his controlled committee. Respondents failed to timely file a pre-election campaign disclosure statement, in violation of Government Code section 84200.8 (1 count); failed to timely file semi-annual campaign disclosure statements, in violation of Government Code section 84200(a) (2 counts); failed to report campaign contributions, in violation of Government Code section 84211 (4 counts); failed to report campaign expenditures, in violation of Government Code section 84211 (2 counts); failed to report the true source of non-monetary campaign contributions, in violation of Government Code section 84211 (1 count); failed to properly dispose of anonymous contributions, in violation of Government Code section 84304 (1 count); accepted cash contributions, in violation of Government Code section 84300(a) (1 count); failed to disclose late contributions in late contribution reports, in violation of Government Code section 84203 (2 counts); and failed to maintain detailed records and accounts as were necessary to prepare campaign statements, in violation of Government Code section 84104 (1 count). *Approved; \$30,000 fine.*

Campaign Reporting Violations

- 5. In the Matter of Plus One, Inc.; FPPC No. 03/418.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent Plus One, Inc., a valve sales and distribution corporation located in San Ramon, committed one violation of the Act by failing

to timely file a semi-annual campaign statement, in violation of Section 84200(b) (1 count). *Approved; \$2,000 fine.*

- 6. In the Matter of Paul Glaab, FPPC No. 02/545.** Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Respondent Paul Glaab, a member of the California Earthquake Authority, failed to timely file a 2001 annual, and a leaving office statement of economic interests, in violation of Government Code section 87300 (2 counts). *Approved; \$800 fine.*

Late Contribution – Streamlined Program

- 7. Failure to Timely File Late Contribution Reports – Proactive Program.** Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failure to file late contribution reports in 2003, in violation of Government Code Section 84203:
- a. In the Matter of Mary Quinn Delaney, FPPC No. 2004-140.** Mary Quinn Delaney of Oakland, California failed to timely disclose a late contribution totaling \$50,000.00. (1 count). *Approved; \$3,500 fine.*
 - b. In the Matter of Roger C. Hobbs, FPPC No. 2004-143.** Roger C. Hobbs of Orange, California failed to timely disclose a late contribution totaling \$10,500.00. (1 count). *Approved; \$1,575 fine.*
 - c. In the Matter of Jillian Manus-Salzman, FPPC No. 2004-149.** Jillian Manus-Salzman of Palo Alto, California failed to timely disclose a late contribution totaling \$21,200.00. (1 count). *Approved; \$3,180 fine.*
 - d. In the Matter of Jerome S. Moss, FPPC No. 2004-150.** Jerome S. Moss of Beverly Hills, California failed to timely disclose a late contribution totaling \$10,000.00. (1 count). *Approved; \$1,500 fine.*
 - e. In the Matter of Nelson Homes, Inc., FPPC No. 2004-151.** Nelson Homes, Inc. of Selma, California failed to timely disclose a late contribution totaling \$10,000.00. (1 count). *Approved; \$1,500 fine.*
 - f. In the Matter of T. Boone Pickens, Jr., FPPC No. 2004-152.** T. Boone Pickens, Jr. of Dallas, Texas failed to timely disclose a late contribution totaling \$30,000.00. (1 count). *Approved; \$3,500 fine.*
 - g. In the Matter of Republican Main Street Partnership, Inc., FPPC No. 2004-153.** Republican Main Street Partnership, Inc. of Washington, DC failed to timely disclose a late contribution totaling \$21,200.00. (1 count). *Approved; \$3,180 fine.*
 - h. In the Matter of Francine & Carl Thompson, FPPC No. 2004-158.** Francine & Carl Thompson of Stockton, California failed to timely disclose a late contribution totaling \$12,000.00. (1 count). *Approved; \$1,800 fine.*

- i. **In the Matter of Daniel D. Villanueva, FPPC No. 2004-159.** Daniel D. Villanueva of Somis, California failed to timely disclose a late contribution totaling \$10,000.00. (1 count). *Approved; \$1,500 fine.*
- j. **In the Matter of Carolee White, FPPC No. 2004-160.** Carolee White of Portola Valley, California failed to timely disclose a late contribution totaling \$10,000.00. (1 count). *Approved; \$1,500 fine.*
- k. **In the Matter of Donahue Wildman, FPPC No. 2004-161.** Donahue Wildman of Malibu, California failed to timely disclose a late contribution totaling \$10,000.00. (1 count). *Approved; \$1,500 fine.*

LEGAL MATTERS

Adoption

- 8. **Amendment of Reg. 18707.1 (“Public Generally” Exception).** Staff: Commission Counsel Natalie Bocanegra. The Commission is presented with clarifying amendments to the existing “public generally” exception provided at regulation 18707.1. Proposed amendments would clarify that a decision must *financially* affect the public official’s economic interest in “substantially the same manner” as the decision will affect the “significant segment” of the public in order for the “public generally” exception to apply. Optional language for determining the “significant segment” when an official has a leasehold interest is also presented. *Version 1 was adopted with revisions.*

Pre-Notice Discussion

- 9. **Proposed Regulatory Action to Address General Plan Decisions: Amendment of Reg. 18704.2 (Direct/Indirect Involvement) and Adoption of Reg. 18707.10 (“Public Generally” Exception).** Staff: Commission Counsel Natalie Bocanegra. This regulatory project explores whether conflict-of-interest regulations should be amended or added to address general plan issues. The staff memorandum discusses two possible regulatory approaches at Step 4 and Step 7 of the standard conflict-of-interest analysis as requested by the Commission, including: 1) amendment to regulation 18704.2 (Step 4) and 2) adding a new “public generally” regulation 18707.10 applicable to certain general plan decisions (Step 7). Adoption of possible regulatory changes is currently planned for August 2004. *The amendments to regulation 18704.2 were approved for adoption in August; proposed regulation 18707.10 was not approved for adoption.*
- 10. **Proposed Regulatory Action to Address “Has Reason to Know/Reasonable Diligence” (Adoption of New Regulation 18700.1).** Staff: Commission Counsel Kenneth Glick. This item presents for pre-notice discussion regulatory language (draft regulation 18700.1) interpreting the “has reason to know” language of section 87100. The draft regulation would require that if a public official does not know whether he or she has a financial interest in a governmental decision, the official is required to exercise reasonable diligence to determine whether he or she has reason to know that the decision will have a reasonably foreseeable material financial effect upon one or more of the official’s economic interests. The draft regulation describes two mandatory actions contributing to a showing of reasonable diligence, as well as listing three permissive actions which also could contribute to a showing of reasonable diligence. Finally, the draft regulation clarifies that a public official’s duty to

comply with section 87100 of the Act is non-delegable. *Staff was directed to prepare two versions of the proposed regulation for adoption in August, one containing current subdivisions (a) and (d) and another version containing subdivisions (a) and (d) plus a permissive checklist.*

ITEMS REMOVED FROM CONSENT

ACTION ITEM

11. Legislative Report. Staff: Executive Director Mark Krause. *The Commission ratified the oppose position taken by the Chairman's Subcommittee on Legislation on AB 2818 and SB 1351, and approved staff recommendations to support AB 3101 and SB 1449.*

DISCUSSION ITEMS

12. Executive Director's Report. Staff: Executive Director Mark Krause. *Mr. Krause made a brief presentation on the budget.*

13. Litigation Report. Staff: General Counsel Luisa Menchaca and Senior Commission Counsel Larry Woodlock. *Submitted without discussion.*